

S. AMANDA MARSHALL, OSB #953473

United States Attorney

District of Oregon

NATALIE WIGHT, OSB #035576

natalie.wight@usdoj.gov

Assistant United States Attorney

United States Attorney's Office

District of Oregon

1000 SW Third Avenue, Suite 600

Portland, Oregon 97204-2902

Telephone: (503) 727-1114

Facsimile: (503) 727-1117

Attorneys for Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

UNITED STATES OF AMERICA

Case No. :1:02-CR-30045 AA

Plaintiff,

v.

PHILLIP WAYNE SMITH

Defendant.

ORDER

**TO REDUCE TERM OF
IMPRISONMENT TO TIME SERVED**

BEFORE THE COURT is a motion filed by the United States of America and the Director of the Federal Bureau of Prisons pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), seeking a modification of the term of imprisonment of the defendant, Phillip Wayne Smith, to time served, and commencement of a three-year term of supervised release previously imposed. The Court finds:

1. Defendant, Phillip Wayne Smith, pled guilty to violating 21 U.S.C. § 841 (a)(1) and (b)(1)(C), Possession With Intent to Distribute Methamphetamine.

2. Mr. Smith was sentenced on February 4, 2003, in the United States District Court for the District of Oregon, to a total term of 156 months of imprisonment followed by a three-year term of supervised release.

3. Mr. Smith's projected release date is July 30, 2014, via Good Conduct Release, but he is unlikely to survive to that date.

4. Mr. Smith, age 43, has been diagnosed with Acute Myelogenous Leukemia. Despite aggressive treatment, his condition has continued to deteriorate and his life expectancy is estimated at less than one year.

5. Title 18 U.S.C. § 3582(c)(1)(A)(i) authorizes the court, upon motion of the Director of the Bureau of Prisons, to modify a term of imprisonment upon the finding that extraordinary and compelling reasons warrant the reduction. The Director of the Bureau of Prisons contends, and this Court agrees, that the Defendant's terminal medical condition and very limited life expectancy constitute extraordinary and compelling reasons that warrant the requested reduction.

IT IS THEREFORE ORDERED that the defendant's term of imprisonment is hereby reduced to the time he has already served.

IT IS FURTHER ORDERED that the defendant shall be released from the custody of the Federal Bureau of Prisons as soon as his medical condition permits, the release plan is implemented, and travel arrangements can be made. It is expected, however, that the defendant will be flown to Oregon within 24 hours after this Order is signed. If the Bureau of Prisons does not believe the defendant is medically appropriate to travel, the Bureau will notify the Court immediately.

IT IS FURTHER ORDERED that upon his release from the custody of the Federal Bureau of Prisons, the defendant shall begin serving the three-year term of supervised release previously imposed.

ORDERED THIS 12th DAY OF MARCH 2012.



THE HONORABLE ANN L. AIKEN
UNITED STATES DISTRICT CHIEF JUDGE